

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

The Parish of St. Paul of Des Moines,
Petitioner-Appellant,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 09-77-1465
Parcel No. 030/02906-000-000

On January 20, 2011, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant, The Parish of St. Paul of Des Moines, submitted evidence in support of its petition and was represented by attorney Thomas Tarbox of Des Moines. The Board of Review designated Assistant County Attorney Ralph E. Marasco, Jr. as its legal representative. The Board of Review submitted evidence in support of its decision. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

The Parish of St. Paul of Des Moines (St. Paul) appeals from the Polk County Board of Review decision reassessing its property located at the corner of Ninth Street and Pleasant Street, Des Moines, Iowa. According to the property record card, the subject property consists of a 0.361 acre (15,708 square-feet) parking lot improved by 15,000 square feet of asphalt paving and a 48 square-foot attendant booth built in 1967. The real estate was classified as commercial for the assessment of January 1, 2009, and valued at \$957,000, representing \$943,000 in land value and \$14,000 in

improvement value. The adjusted value after the partial exemption was \$284,000, allocated \$279,840 to land value and \$4160 in improvement value.

St. Paul protested to the Board of Review on the grounds that the property assessment is not equitable compared to the assessments of like properties in the taxing jurisdiction under Iowa Code 441.37(1)(a); the property was assessed for more than authorized by law under section 441.37(1)(b); and that the property is not assessable, is exempt from taxes, or is misclassified under section 441.37(1)(c). The Board of Review denied the petition stating, "The assessed value of this property was not changed because market data indicates that the property is assessed at its fair market value."

St. Paul then appealed to this Board and reasserted its claims. At hearing, the exemption claim was withdrawn, and the appeal proceeded on the grounds of equity and over-assessment.

John Doherty, Deacon and Financial Officer for St. Paul, testified part of the parking lot is reserved for church use, the entire lot is used on Sundays and for other church activities, and a portion is rented out to the public during the week. He reported parking revenues have decreased due to fewer spaces being available for rental, increased administrative fees, and a period of closing for construction. In Doherty's opinion, the property is over-assessed and inequitably assessed as compared to other similar properties in the area.

St. Paul offered exhibits of commercial land owned by Principal Insurance at the corner of Ninth and Pleasant Streets where the subject property is located. The land assessments range from \$43.00 to \$55.99 per square foot and have a median of \$46.93 per square foot. While the assessor's cost report indicates a base rate of \$60 per square foot for St. Paul's land value. These properties were all considerably larger than St. Paul ranging from 47,851 to 91,860 square feet in size. Two of the parcels were designated Central Business District zoning similarly to subject property.

St. Paul also offered exhibits of commercial land¹ owned by other churches and non-profit corporations in the area showing assessments ranging from \$14.28 to \$50.00 per square foot with a median of \$29.00 per square foot. These properties are located north or east of the subject property and all four are in Central Business District zoning.

St. Paul prepared an exhibit listing seven downtown parking facilities, two of which are listed as tax exempt. These land value assessments range from \$0.00² to \$41.69 per square foot with a median of \$23.65 per square foot.

A list of twenty-five land parcels in the Iowa Methodist Medical Center Campus indicates the majority of these parcels are assessed at approximately \$6.70 per square foot. These parcels appear contiguous on the map and fifteen of them are tax exempt. The campus is north and west of the subject property and most of the listed parcels are in Central Business District zoning. A list of twelve parcels in the Mercy Medical Campus was also provided by St. Paul. The campus is located north and east of the subject property. Half of these properties were taxable and the other half were fully or partially tax exempt. The assessments ranged from \$3.35 to \$5.37 per square foot and a median of \$5.35 per square foot.

Lastly, St. Paul submitted an exhibit of twelve properties in the courthouse area located south and east of the subject property. The land assessments ranged from \$4.34 to \$35.00 per square foot. In Doherty's opinion, the courthouse area should have higher values than the subject property's location.

Doherty testified the subject property is "postage stamp" size, cannot be combined with adjacent property, and has limited potential for development. Because of these factors, he believes the assessment fails the fairness test.

¹ St. Paul set aside the value of improvements on the compared properties and used only the assessed value of the land in its exhibits.

² This property is owned by the City of Des Moines and has no assessed value listed.

Although the certified record included a list of downtown land purchases by Wellmark, it only included data regarding the assessment, size, and assessed land value per square foot of the properties. It did not include the date of sale, a total sale price, or purchase price per square foot. This data would have been useful to prove a claim of over-assessment and is necessary for a sales ratio analysis to establish an equity claim.

The Board of Review submitted aerial photos of downtown Des Moines in the location of the subject property (Exhibit B). It shows assessed land values of approximately \$60 per square foot surrounding the subject property, approximately \$50 north of the subject and a cluster of approximately \$65 per square foot assessments in the 6th through 8th Street blocks between Locust Street and Grand Avenue. It was not clear why a lone parcel near 8th and High Streets was only assessed at \$18.30. It also provided an aerial downtown photo with land values derived from independent appraisers (Exhibit C). Without testimony or source data to review regarding the appraisals, we give no weight to this exhibit.

St. Paul relied entirely on a comparison of assessed land values. Without evidence of sales or other market data it cannot show over assessment. Further, while some of St. Paul's exhibits suggest its assessment is inequitably higher than other downtown land, it acknowledged it only selected parcels with assessed land values below its assessed land value. It ignored parcels with assessed values similar to or higher than its property. This selective process may have worked to skew the results and made them unreliable for comparison.

Reviewing all the record as a whole, we find that the preponderance of the evidence did not establish the subject property is inequitably assessed or that it is assessed for more than authorized by law as of January 1, 2009.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The gist of this test is the ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market

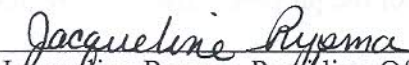
value. § 441.21(1). It is our conclusion St. Paul failed to present persuasive evidence sufficient to support the claim that its land assessment was inequitable as compared with assessments of other like property in the taxing district. Although some downtown parcels were assessed at lower per square foot rates, many other surrounding land values were comparable to St. Paul's assessed value.


In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). The evidence does not support a finding St. Paul's property is assessed for more than fair market value.

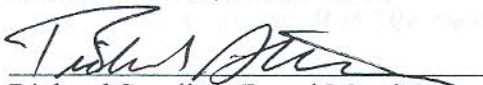
We therefore, affirm the St. Paul property assessment as determined by the Board of Review. The Appeal Board determines that the property assessment value as of January 1, 2009, is \$957,000, representing \$943,000 in land value and \$14,000 in improvement value. The adjusted value after the partial exemption granted is \$284,000, allocated \$279,840 to land value and \$4160 in improvement value.

THE APPEAL BOARD ORDERS that the January 1, 2009, assessment as determined by the Polk County Board of Review is affirmed.

Dated this 2 day of March 2011.


Jacqueline Rypma, Presiding Officer


Karen Oberman, Board Chair


Richard Stradley, Board Member

Copies to:

Thomas T. Tarbox

Law Office of Thomas T. Tarbox

309 Court Avenue, Suite 240

Des Moines, IA 50309

ATTORNEY FOR APPELLANT

Ralph E. Marasco, Jr.

Assistant Polk County Attorney

111 Court Avenue, Room 340

Des Moines, IA 50309-2218

ATTORNEY FOR APPELLEE

Certificate of Service

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on 3-2, 2011

By: ☒ U.S. Mail ☐ FAX
☐ Hand Delivered ☐ Overnight Courier
☐ Certified Mail ☐ Other

Signature

[Handwritten Signature]